

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Steven B. Pollack and)	
Blue Eco Legal Council,)	
)	
Plaintiffs,)	Case Number: 08-cv-320
)	Assigned Judge: Guzman
v.)	Magistrate Judge: Brown
)	
United States Department of Justice,)	
United States Coast Guard,)	CWA, RCRA, CERCLA, AND
United States Navy,)	PUBLIC NUISANCE FTCA CASE
United States Marines, and)	
United States Department of Defense,)	
)	
Defendants.)	

PLAINTIFFS MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs Steven B. Pollack and Blue Eco Legal Council ask this Court for a Temporary Restraining Order (TRO) enjoining the continued operation of the FBI Range pursuant to Fed. R. Civ. P. 65 based on newly discovered facts.

On Wednesday, March 26, 2008 Plaintiffs and their expert visited Foss Park next to the FBI Range to assess their needs for the property inspection ordered by this Court earlier in the day. While walking along this public property they found and documented 31 lead bullets laying in plain view, including one found beneath a playground swing set. According to Plaintiffs' expert James Barton, the likely source of these bullets are ricochets off the adjacent berm on Defendants' firing range. see Plaintiffs' Motion For Leave to File Second Amended Complaint, Affidavit by James Barton. (In deference to this Court's admonition to maintain control of video from upcoming tracer testing, Plaintiffs will present photographic and physical evidence directly to this Court).

Because Foss Park is an active public area where children play, the offsite discharge of lead bullets from Defendants' FBI Range onto Park land presents an imminent and substantial endangerment pursuant to 42 U.S.C. § 6972(a)(2) which this Court has authority to restrain. See. Second Amended Complaint at ¶42-44. First, children may find spent lead bullets lying on the ground to be an attractive nuisance, the handling or ingestion of which is a cause for health concerns. Second, children and Park patrons are subject to being struck by rounds ricocheting

through the air while FBI training is ongoing. Finally, the brightly jacketed munitions lying on the land may attract Lake Michigan wildlife to ingest the harmful lead content.

Plaintiffs expert, James Barton, estimates a lead bullet abatement to grass root depth at Foss Park and the beach below to cost \$137,000, take three weeks to complete, and can begin within three weeks of a signed contract. Mr. Barton will furnish a proposal at this Court's request.

Wherefore, Plaintiffs ask this Court to temporarily restrain the continued operation of this FBI Range pending the decision on their motion for preliminary injunction. Plaintiffs additionally ask this Court to order Defendants to immediately retrieve their lead munitions from public lands at Foss Park and on the beach below the FBI Range.

Respectfully submitted,

s/ Steven B. Pollack
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CERTIFICATE OF SERVICE

I hereby certify that on the date below the foregoing PLAINTIFFS MOTION FOR TEMPORARY RESTRAINING ORDER was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated: March 28, 2008

Respectfully submitted,

/s/ Steven B. Pollack
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